IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE TWENTY FIFTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 10570 of 2004

Between:

Tarang Bar & Restaurant, rep. by its Proprietor,
D. Raja Rao S/o. Satyanarayana
R/o. G-81, Plot No. 301, Saikrupa Arcade,
Madhuranaghar, Hyderabad.

..... PETITIONER

AND

The Commissioner of Police,
Basheerbagh, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ more particularly one in the nature of writ of Mandamus declaring the impugned proceedings Dt. 7.6.2004 vide No. L&O/A3/1893/2003 passed by the respondent as illegal, arbitrary and consequently direct the respondent to issue necessary licence.

Counsel for the Petitioner : SMT.C.VANI REDDY.

Counsel for the Respondent : The GP FOR HOME

The Court made the following ORDER:

This writ petition is filed by the petitioner aggrieved by the proceedings of the respondent dated 7-06-2004, under which the petitioner's application for permission for the grant of Amusement Licence was rejected on the ground that the parking area is insufficient, and that the petitioner is not entitled to, in terms of Section 21(3) of the City Police Act, 1348 Fasli (for short 'the Act') read with Rule 112(1)(1) and Rule 126(1) of Hyderabad Amusement Rules 1351 Fasli (for short 'the Rules') on the ground of disturbance of law and order position and inadequate parking. Assailing the said order, the present writ petition is filed.

The learned counsel for the petitioner contended that even as per the finding of the Commissioner, in the impugned order, there is an agreement between the petitioner and the owner of the building as per which, the Bar was allocated 2,200 Sq. feet of cellar parking area. But, however, according to the Commissioner, the consent of other occupants was not obtained, which is not relevant. It is also contended by the learned counsel for the petitioner that the Commissioner referred to Section 21(3) of the Act, which empowers the Commissioner to refuse a licence or prohibit an establishment of a place of public amusement or a place of public entertainment by a notorious scoundrels or a bad character. Similarly, the learned counsel also referred to the provisions of Rule 112 and 126 of the

Rules.

A perusal of Rule 112 shows that it deals with the powers of the Commissioner to grant permission for conducting dharnas and demonstrations on various grounds specified therein. Similarly, Rule 126 deals with the matters, which the applicant has to specify the Commissioner of Police, such as the situation of the proposed area, its suitability, and having suitable and sufficient conveyance facility, precautionary measures against fire, and source of air etc.

According to the learned counsel, the above referred provisions and the findings referred by the Commissioner are not based on the facts as contained in the impugned order. Therefore, the impugned order is liable to be quashed.

The learned Government Pleader, on the other hand, supported the order and sought for time to file counter.

As the material facts are not in dispute, the writ petition is disposed of at the admission stage. Admittedly, the petitioner made an application for grant of Amusement Licence. As per the agreement produced before the respondent – Commissioner, the petitioner provided an extent of 2200 Sq., feet of parking area for its customers.

With reference to the other averments made or findings recorded by the Commissioner, the Commissioner referred to provision of Section 21(3) of the Act, which is not dealing with the issue in question. Therefore, the reference to the said provision is not at all relevant and similarly, Rule 112 of the Rules is also not relevant as it is dealing with dharnas and demonstrations.

So far as Rule 126 of the above Rules is concerned, it is dealing only with reference to the suitability and sufficiency of the place as well as the conveyance and other precautionary measures. With reference to that, there is no clear finding by the Commissioner

that how the premises is not suitable, especially for a Bar and Restaurant when a licence, granted in favour of the petitioner, is subsisting and the petitioner is running the business of a Bar and Restaurant. What was sought for by way of additional facility is only a licence for providing amusement to its customers by conducting music and singing programmes in the said Bar and Restaurant. According to the petitioner no additional customers would visit the Bar and Restaurant and the additional facility sought for is only a licence for providing amusement to its customers.

Under the above circumstances, the grounds on which the respondent has rejected the application of the petitioner for grant of Amusement Licence is not proper and just and accordingly the same is set aside and the matter is restored to the file of the respondent to pass appropriate orders in granting licence to the petitioner within a period of ten days from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of at the admission stage.

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25-06-2004

Note:- Furnish CC in 3 days.

B/o.

ES/VA

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Commissioner of Police, Basheerbagh, Hyderabad.

2. Two CCs to G.P. for Home, High Court Buildings, Hyderabad, (OUT).
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